

OFFICE OF THE SHERIFF

COUNTY OF LOS ANGELES

HALL OF JUSTICE

JIM MCDONNELL, SHERIFF



April 26, 2016

Date of Department Hire 06/01/2005

Deputy Gary Butts, #[redacted]
[redacted]

Dear Deputy Butts:

On November 19, 2015, you were served with a Letter of Intention indicating your right to respond to the Sheriff's Department's pending disciplinary action against you, as reported under IAB File Number 2389622. You were also advised of your right to review the material on which the discipline was based.

You did exercise your right to respond. However, after review and consideration of the response submitted to support your position, Department executives determined that the recommended discipline is appropriate.

You are hereby notified that you are suspended without pay from your position of Deputy Sheriff, Item No. 2708A, with this Department for a period of three (3) days effective May 2, 2016 through May 4, 2016.

An investigation under File Number IAB 2389622, conducted by Internal Affairs Bureau, coupled with your own statements, has established the following:

1. That in violation of the Department's Manual of Policy and Procedures, Section(s) 3-01/050.10, Performance to Standards; and/or 3-01/030.10, Obedience to Laws, Regulations and Orders (specifically pertaining to 3-10/050.15, Performance to Standards – Performance Associated with the Use of Force; and/or 3-10/150.00, Tactical Incidents; and/or 5-09/220.50, Foot Pursuits), on or about August 9, 2014, while on duty, you failed to conform to the work standards established for your

position as a deputy sheriff when you failed to employ sound strategies and/or tactics leading up to and following a deputy-involved shooting, as evidenced by, but not limited to:

a. placing yourself at a tactical disadvantage during your initial contact of Alberto Morales by conducting a computer check of the suspect, who was seated on a bus bench, while you remained seated in your patrol vehicle; and/or,

b. remaining in a position of tactical disadvantage when announcing to the suspect that he had an outstanding warrant for his arrest; and/or,

c. engaging in a solo deputy foot pursuit of an armed suspect after being fired upon and shooting at the suspect.

2. Your failure to conform to the training and performance standards of the Department, coupled with his poor judgment, resulted in you being shot at numerous times by the suspect and sustaining a gunshot wound to your arm. Additionally, after a containment was established, an armed confrontation with the suspect ensued resulting in the suspect being fatally shot.

Additional facts for this decision are set forth in the Disposition Worksheet, Investigative Summary and Investigative Packet which are incorporated herein by reference.

Prior to imposing this disciplinary action, I have thoroughly reviewed the incident and your record with this Department.

You will hereby take notice that any future acts of misconduct may result in more severe disciplinary action.

You may appeal the Department's action in this matter pursuant to Rule 18.01(c) of the Civil Service Rules.

The Sheriff's Department reserves the right to amend and/or add to this letter.

Sincerely,

JIM McDONNELL, SHERIFF

ORIGINAL SIGNED

Karl Schow, Captain
Transit Services South Bureau

Note: Attached for your convenience are excerpts of the applicable areas of the Manual of Policy and Procedures and Civil Service Rules {when applicable}.

KS:JMR:jd

c: Advocacy Unit
Ronene M. Anda, Chief, Transit Policing Division
Internal Affairs Bureau
Personnel Administration
Transit Services South Bureau/unit Personnel File



OFFICE OF THE SHERIFF



COUNTY OF LOS ANGELES

HALL OF JUSTICE

JIM MCDONNELL, SHERIFF

November 19, 2015

Deputy Gary Butts, #[redacted]

Dear Deputy Butts:

You are hereby notified that it is the intention of the Sheriff's Department to suspend you without pay from your position of Deputy Sheriff, Item No. 2708A, with this Department for a period of three (3) days.

An investigation under IAB file number IV2389622, conducted by Internal Affairs Bureau, coupled with your own statements, has established the following:

1. That in violation of the Department's Manual of Policy and Procedures, Section(s) 3-01/050.10, Performance to Standards; and/or 3-01/030.10, Obedience to Laws, Regulations and Orders (specifically pertaining to 3-10/050.15, Performance to Standards – Performance Associated with the Use of Force; and/or 3-10/150.00, Tactical Incidents; and/or 5-09/220.50, Foot Pursuits), on or about August 9, 2014, while on duty, you failed to conform to the work standards established for your position as a deputy sheriff when you failed to employ sound strategies and/or tactics leading up to and following a deputy-involved shooting, as evidenced by, but not limited to:

   a. placing yourself at a tactical disadvantage during your initial contact of Alberto Morales by conducting

a computer check of the suspect, who was seated on a bus bench, while you remained seated in your patrol vehicle; and/or,

b. remaining in a position of tactical disadvantage when announcing to the suspect that he had an outstanding warrant for his arrest; and/or,

c. engaging in a solo deputy foot pursuit of an armed suspect after being fired upon and shooting at the suspect.

Your failure to conform to the training and performance standards of the Department, coupled with his poor judgment, resulted in you being shot at numerous times by the suspect and sustaining a gunshot wound to your arm. Additionally, after a containment was established, an armed confrontation with the suspect ensued resulting in the suspect being fatally shot.

Additional facts for this decision are set forth in the Disposition Worksheet, Investigative Summary and Investigative Packet which are incorporated herein by reference.

Prior to determining this disciplinary action, the Executive Force Review Committee and I have thoroughly reviewed the incident and your record with this Department.

You have the right to grieve this disciplinary action within ten (10) business days of receipt of this letter. Your grievance procedures may be found in your classification's negotiated Memorandum of Understanding.

Failure to respond to this Letter of Intent within ten (10) business days will be considered a waiver of your right to grieve and will result in the imposition of this discipline indicated herein.

At the time of service of this letter of intent, you were provided with a copy of the material on which the discipline is based. If you are unable to access the information provided in the enclosed CD, you may contact Virginia Vasquez, of Internal Affairs Bureau, at (323) 890-5314, and arrange an appointment for assistance in this regard.

The Sheriff's Department reserves the right to amend and/or add to this letter.

Sincerely,

JIM McDONNELL, SHERIFF

Original Signed

Karl R. Schow, Captain
Transit Bureau South

KRS:DLM:vv

cc: Advocacy Unit
Employee Relations Unit
Ronene M. Anda, Chief, Transit Policing Division
Internal Affairs Bureau
(File # IAB IV2389622)

Manual of Policy and Procedures Section 3-03/210.05, Revolvers/Semi-Automatic Pistols (On and Off Duty)

Scientific Services Bureau Receipt Number K544609

Administrative Rights Force/Shooting Investigation form for Deputy Butts

Administrative Rights Force/Shooting Investigation form for Deputy Robinson

Administrative Rights Force/Shooting Investigation form for Deputy Gaunt

Two (2) Administrative Rights Force/Shooting Investigation forms for Deputy Salazar

Administrative Rights Force/Shooting Investigation form for Deputy Toone

Administrative Rights Force/Shooting Investigation form for Deputy Stoll

Administrative Rights Force/Shooting Investigation form for Deputy Phillippi

Administrative Rights Force/Shooting Investigation form for Deputy Granek

Administrative Rights Force/Shooting Investigation form for Deputy O'Hara

Los Angeles County Sheriff's Department Newsletter, Volume 8, number 13, TASER Training Bulletin

County of Los Angeles Sheriff's Department Field Operations Directive 86-37, Canine Deployment, Search and Force Policy

Transit Policing Division EM Shift In-service dated Saturday, August 9, 2014

Transit Policing Division AM Shift In-service dated Saturday, August 9, 2014

Aero Bureau AM Shift In-service dated Saturday, August 9, 2014

COUNTY OF LOS ANGELES

SHERIFF'S DEPARTMENT

"A Tradition of Service Since 1850"

DATE: March 2, 2019
FILE No. 2389622
ARB No. 089-16

OFFICE CORRESPONDENCE

FROM: JULIA VALDES, SERGEANT
ADVOCACY UNIT

TO: JOSIE S. WOOLUM, CAPTAIN
INTERNAL AFFAIRS BUREAU

SUBJECT: GARY BUTTS, DEPUTY SHERIFF, EMPLOYEE NO. [redacted]

On November 19, 2015, Deputy Gary Butts received his Letter of Intent notifying him that it was the intention of the Department to suspend him without pay from his position of Deputy Sheriff, Item No. 2708A, with this Department for a period of three (3) days.

On November 23, 2015, Deputy Butts filed a grievance appealing his three (3) day suspension. The grievance was denied throughout the process. On April 26, 2016, Deputy Butts received his Letter of Imposition notifying him that he was suspended without pay from his position of Deputy Sheriff, Item No. 2708A, with this Department for a period of three (3) days effective May 2, 2016 through May 4, 2016.

On May 10, 2016, Deputy Butts filed an appeal with the Employee Relations Commission. On May 23, 2016, the Employee Relations Commission granted him a hearing. Arbitrator Robert D. Steinberg was appointed. There were three days of hearing.

On February 22, 2019, Arbitrator Robert D. Steinberg stated the three (3) day suspension of Grievant was not for proper cause. The appropriate remedy for the sole sustained violation of Department policy as alleged is a written reprimand.

Therefore, Deputy Butts will receive back pay pursuant to the County Code for the three (3) day suspension that he served on May 2, 2016 through May 4, 2016 as soon as practicable.

Please make any necessary changes in your records and to PRMS to reflect the attached Arbitrator's Award. If you have any questions regarding this matter, please contact me at (323) 890-5414.

JV:liz

Attachments

C **Six (6) DVDs containing photographs of crime scenes one and two, aerial, residential video from [redacted] Grand Avenue, cell phone video at scene two, and CCTV video. In addition, seven (8) CDs containing photographs of deputies' attire, radio transmissions, 9-1-1 call, Coroner's Photographs, Homicide investigators' interviews, and IAB investigators' interviews**

D **Five (7) photographs of scene one depicting markings by Deputy Butts, his view from inside the patrol vehicle, and the MDC screen depicting the suspect's warrant information**

E **Two (2) photographs of scene two depicting markings by Deputy Robinson**

F **Four (4) photographs of scene two depicting markings by Deputy Gaunt**

G **Two (4) photographs of scene two depicting markings by Deputy Salazar**

H **Four (4) photographs of scene two depicting markings by Deputy Toone**

I **Two (2) photographs of scene two depicting markings by Deputy Stoll**

J **Two (2) photographs of scene two depicting markings by Deputy Phillippi**

MISCELLANEOUS DOCUMENTS

Los Angeles County Sheriff's Department Foot Pursuit Evaluation Form

Los Angeles County Sheriff's Department Employee Training Records for Deputy Butts

Los Angeles County Sheriff's Department Employee Training Records for Deputy Salazar

Nine (9) Photographs of the scene taken by Witness [redacted]

One (1) Photograph of Deputy Butts' Beretta, Model 92FS, semi-automatic pistol

Newsletter, Volume 15, Number 21, Firearm Magazines

Manual of Policy and Procedures Section 3-03/210.05, Revolvers/Semi-Automatic Pistols (On and Off Duty)

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Transit Policing Division EM Shift In-service dated Saturday, August 9, 2014

Transit Policing Division AM Shift In-service dated Saturday, August 9, 2014

Aero Bureau AM Shift In-service dated Saturday, August 9, 2014



LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE
BUREAU OF FRAUD AND CORRUPTION PROSECUTIONS
JUSTICE SYSTEM INTEGRITY DIVISION

JACKIE LACEY o District Attorney
SHARON J. MATSUMOTO o Chief Deputy District Attorney
JOSEPH P. ESPOSITO o Assistant District Attorney

SCOTT K. GOODWIN o Director

December 11, 2014

Captain Rod Kusch
Homicide Bureau
Los Angeles County Sheriff's Department
5747 Rickenbacker Road
Commerce, California 90040

Re: J.S.I.D. File #14-0521
L.A.S.D. File #014-04318-6835-013

Dear Captain Kusch:

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the August 9, 2014, use of deadly force and fatal shooting of Alberto Morales by Los Angeles County Sheriff's Department Deputies Gary Butts and Edson Salazar, respectively. We find that Deputy Butts acted lawfully in self-defense and that Deputy Salazar acted lawfully in self-defense, in defense of others, and in an attempt to apprehend a dangerous felon.

The District Attorney's Command Center was notified of the shooting on August 9, 2014 at approximately 5:50 a.m.[1] The District Attorney Response Team, comprised of Deputy District Attorney Renee Chang and District Attorney Senior Investigator [redacted] responded and was given a briefing of the circumstances and a walk-through of the scene.

The following analysis is based upon reports prepared by the Los Angeles County Sheriff's Department (LASD), submitted to this office by Detective Steve Blagg, LASD Homicide Bureau. The voluntary statements of Deputy Butts and Deputy Salazar were considered as part of this analysis.

FACTUAL ANALYSIS

On August 9, 2014, at approximately 4:11 a.m., LASD Deputy Gary Butts was on duty, driving a single man, marked patrol vehicle in Walnut Park, an unincorporated area of Los Angeles County.[2]

[1] At the time of the notification, it was unknown if Morales had been struck by any of the rounds fired by Butts. The District Attorney's Command Post was notified of the second shooting involving Deputy Salazar by Deputy District Attorney Garret Dameron of the Crimes Against Police Officers Division.

[2] Butts was assigned to the LASD Transit Services Bureau. His duties that morning included monitoring bus stops and bus boardings.

Clara Shortridge Foltz Criminal Justice Center
210 West Temple Street
Los Angeles, CA 90012-3210
(213) 974-3888
Fax: (213) 620-1208
WEBSITE: http://da.co.la.ca.us

Butts observed Alberto Morales sitting on a bus bench at the intersection of Pacific Avenue and Grand Avenue. Butts pulled his patrol vehicle to the curb directly in front of Morales. Through the open front passenger window, Butts began speaking with Morales. Butts learned that Morales had an outstanding warrant on a misdemeanor drug charge.[3]

Butts exited his vehicle, approached Morales, and ordered him to place his hands on the hood of the patrol vehicle. Morales immediately stood up, held his hands in fists, walked toward Butts, and stated, "I'm not going back to jail." In fear for his safety, Butts removed his Taser and ordered Morales to stop. Morales continued to walk toward Butts. In fear for his safety, Butts discharged the Taser at Morales, striking him in the torso.[4] Morales fell to the ground. Morales pulled the Taser probes from his body and stood up. He took a few steps backwards, then removed a handgun and fired numerous rounds at Butts, striking Butts one time in his right forearm. Butts dropped the Taser and removed his firearm. He fired five rounds at Morales as Morales turned and ran in the opposite direction on Grand Avenue.[5]

Butts ran after Morales but eventually lost sight of him.[6] Other LASD deputies responded to the location and set up a containment in an effort to locate Morales. Special Enforcement Bureau (SEB) Deputies Edson Salazar, Willie Robinson, Jason Phillippi, Adam Stoll, Andrew Toon, and Daryl Gaunt with his K-9 partner, Tosca, assisted in the search.

At approximately 7:15 a.m., the SEB deputies were searching a walkway behind a medical office located at the corner of Seville Avenue and Grand Avenue.[7] There was a large trash dumpster with two side-by-side lids located in the walkway. Stoll opened the lid on the right side and peeked in the dumpster. Morales was hiding inside with his hands out of view. Stoll quickly closed the lid. Robinson opened the left side lid and immediately began ordering Morales to show his hands and to get out of the dumpster. Phillippi opened the right side lid as the deputies continued to issue commands to Morales. When Morales did not comply with the deputies orders, Gaunt deployed Tosca into the dumpster in an attempt to force Morales to climb out. Tosca immediately went "on bite" and took hold of Morales upper left arm. Morales did not react to Tosca and remained in the dumpster. Robinson and Gaunt reached into the dumpster and grabbed Morales. They attempted to pull him out of the dumpster, but Morales struggled and resisted them. In an attempt to subdue Morales, Gaunt and Salazar punched him several times on the head.

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[3] Morales told Butts his name and date of birth which Butts entered into his vehicle's mobile digital computer.

[4] Butts was armed with an LASD issued X26 Taser. The firing data of the Taser indicated that Butts activated the Taser one time for a six second duration. He was also armed with a Beretta model 92 FS, 9mm Luger caliber, double action, semiautomatic pistol.

[5] [redacted] was standing next to the bus bench at the time of the incident. [redacted] stated that, when Butts got out of his patrol vehicle, Morales began to move away. Butts told Morales, "Don't run from me. I'm gonna tase you!" Morales turned to run away. Butts "tased" Morales several times, causing him to fall to the ground. Morales stood up, pulled a large handgun from his waistband, and fired numerous times at Butts from approximately 10 feet away.

[6] Butts was transported to Saint Francis Hospital where he was treated for a through and through gunshot wound to his right forearm.

[7] This is one block from the bus bench where Butts initially contacted Morales.

Robinson and Gaunt were able to pull Morales out and put him on the ground face down.[8] Simultaneously, a large handgun fell from Morales' waistband to the ground next to Morales' right side. Morales reached his right hand toward the gun and grabbed it. Out of fear for his safety, the safety of his fellow deputies, and in an attempt to apprehend a dangerous felon, Salazar placed his firearm to Morales' head and fired one round.[9] Paramedics from LASD Emergency Services Detail responded to the location and pronounced Morales dead at the scene.[10]

Deputy Medical Examiner Odey Ukpo, M.D. performed an autopsy on Morales on August 10, 2014. Morales suffered a gunshot wound to the back of his head. He had puncture wounds consistent with a dog bite on his left deltoid. Blood samples taken from Morales during the autopsy were analyzed and determined to contain methamphetamine. Dr. Ukpo determined the cause of death to be a gunshot wound to the head.

LEGAL ANALYSIS

California law permits the use of deadly force in self-defense or in the defense of others if it reasonably appears that the person claiming the right of self-defense or defense of others actually and reasonably believed that he was in danger of great bodily injury or death. People v. Randle (2005) 35 Cal.4th 987, 994 (overruled on another ground in People v. Chun (2009) 45 Cal.4th 1172, 1201); People v. Mercer (1962) 210 Cal.App.2d 153, 161.

In protecting himself or another, a person may use all force which he believes reasonably necessary and which would appear to a reasonable person, in the same or similar circumstances, to be necessary to prevent imminent injury. CALCRIM No. 3470.

"Where the peril is swift and imminent and the necessity for action immediate, the law does not weigh in too nice scales the conduct of the assailed and say he shall not be justified in killing because he might have resorted to other means to secure his safety." People v. Collins (1961) 189 Cal.App.2d 575.

"The 'reasonableness' of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight....The calculus of reasonableness must embody allowance for the fact that police are often forced to make split-second judgments – in circumstances that are tense, uncertain, and rapidly evolving – about the amount of force that is necessary in a particular situation." Graham v. Conner, (1989) 490 U.S. 386, 396-397.

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[8] Tosca was still "on bite" and was pulled out of the dumpster along with Morales.
[9] Salazar was armed with a Smith & Wesson model M&P, 9mm semiautomatic pistol.
[10] Morales was armed with a Colt model Trooper Mark III, .357 Magnum caliber, double action six shot revolver with a six inch barrel. It was loaded with four live rounds.

California law also permits the use of deadly force by police officers when necessary to affect the arrest of a person who has committed a forcible and atrocious felony which threatens death or serious bodily harm. People v. Ceballos (1974) 12 Cal.3d 470. Forcible and atrocious crimes are those crimes whose character and manner reasonably create a fear of death or serious bodily injury. Ceballos, supra, 12 Cal.3d at 479.

CONCLUSION

The evidence examined shows that Deputy Butts was attempting to arrest Morales on a warrant. When Morales resisted, Butts used his Taser in an attempt to effectuate the arrest. Morales removed a firearm from his waistband and fired multiple rounds at Butts, striking Butts in his right forearm. In fear for his life, Butts responded with deadly force, firing five rounds at Morales from his service weapon. Morales, who was not struck by any of Butts' rounds, turned and fled on foot.

LASD deputies arrived and set up a containment in an attempt to apprehend Morales. When SEB deputies located Morales in a trash dumpster, Deputy Robinson continuously ordered him to show his hands and come out of the dumpster. Morales did not comply. After deploying Tosca into the dumpster, Deputies Robinson and Gaunt attempted to pull Morales out of the dumpster. Morales resisted. Deputies Gaunt and Salazar punched him several times on the head in an attempt to subdue him. Deputies Robinson and Gaunt were able to pull Morales out and put him face down on the ground. At the same time, a large handgun fell from Morales' waistband to the ground near Morales' right hand. Morales grabbed the firearm with his right hand. Out of fear for his life and the lives of his fellow deputies, and in an attempt to arrest a dangerous felon who had attempted to murder a peace officer, Deputy Salazar responded with deadly force by shooting Morales and ending the threat.

We find that Deputy Butts acted in lawful self-defense and Deputy Salazar acted lawfully in self-defense, in defense of others, and in an attempt to apprehend a dangerous felon when they used deadly force against Alberto Morales. We are closing our file and will take no further action in this matter.

Very truly yours,

JACKIE LACEY
District Attorney

By

RENEE CHANG
Deputy District Attorney
(213) 974-3888

c: Deputy Gary Butts, #[redacted]
Deputy Edson Salazar, #[redacted]